



**Council District Six**  
**City of San Diego**

**MEMORANDUM**

**DATE:** February 6, 2006 (revised)

**TO:** David Miller, Deputy City Attorney

**FROM:** Councilmember Donna Frye *Donna Frye*

**SUBJECT:** **Applicable FEHA Requirements for Condominium Conversions**

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At the January 24, 2006 Council meeting, the Council discussed ordinances amending the Land Development Code regulations in regards to condominium conversions. Among the many concerns expressed during the discussion of the proposed ordinances was the application of laws for disabled access to newly converted units.

A concerned constituent has recently brought to our attention portions of FEHA that may be applicable to condominium conversions. In response, I respectfully request an analysis of FEHA regulations to ensure that the Council fulfills its duties in making housing available to our entire citizenry, including our disabled community. Please refer to the attachment for the specific sections of FEHA cited.

I appreciate your attention to this matter.

DF/ps

Attachments

**From:** "Theresa" <quiroz@cox.net>  
**To:** <jmadaffer@sanidiego.gov>, <scottpeters@sanidiego.gov>, <donnafrye@sanidiego.gov>  
**Date:** Sat, Jan 28, 2006 5:39 PM  
**Subject:** FEHA

Council Members,

I would like to respond to a question posed by Councilwoman Frye at the Council meeting of Tuesday, January 24, during the item regarding Condo Conversion Regulations. The response that she received to her request for information about the ADA was only partially correct. The Fair Employment and Housing Act (FEHA), Section 12955(l) reads:

It is prohibited "to discriminate through public and private land use practices, decisions and authorizations because of ..disability.. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits and other actions authorized under the Planning and Zoning Law (Title 7 commencing with section 65000) that make housing unavailable."

Section 12955.8 reads:

- a) proof of an intentional violation of this article includes, but is not limited to, an act or failure to act that is otherwise covered by this part, that demonstrates an intent to discriminate in any manner in violation of this part.
- b) proof of a violation causing a discriminatory effect is shown if an act or failure to act that is otherwise covered by this part, and that has the effect, regardless of intent, of unlawfully discriminating on the basis of ..disability .

As you can see, FEHA obligates the Council members to ensure that land-use decisions, such as on condo conversions, do not discriminate in such a way as to making rental housing units unavailable to the disabled. If you consider your previous decisions that day regarding over 1,000 conversion units, did you ensure before you made those decisions that your decisions would not violate FEHA by making a disproportionate number of rental units unavailable to the disabled? Or is it possible, that by voting to approve those projects, you allowed the last available accessible rental units to be converted? The fact that you do not know for sure the answer to those questions must bring into question your compliance with FEHA.

I strongly suggest that the Council members' ask their Disability Law Attorneys to answer Ms. Frye's question more accurately, so that you can get a better idea of what is required of you and how to fulfill that requirement. I strongly suggest that you immediately begin to track the number of accessible rental units, and the area in which they are located. As each conversion project comes forward, the councilmember will then be able to determine whether the project will make accessible rental units unavailable to the disabled, and determine how to ameliorate that action, before giving permission for the conversion to continue.

Thank you.

Theresa Quiroz